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1c5520 U.S. PTO

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**PATENT APPLICATION**

Assistant Commissioner for Patents  
Box **Patent Application**  
Washington, D. C. 20231

Sir:

Enclosed herewith for filing is the following **utility patent application which claims priority to U.S. Provisional Application, serial no. 60/127,335, filed April 1, 1999.**

Applicant(s): **Tom Giammaressi**

Title of application: **SERVICE RATE CHANGE METHOD AND APPARATUS**

Pages of specification: **15** (including 3 pages of claims and 1 page abstract)

Sheets of drawings: **2**

Executed on: **August 30, 1999** Docket No.: **DIVA 044**

PATENT APPLICATION FILING FEE CALCULATION				
	<u>No. Filed</u>	<u>Less</u>	<u>Rate/Claim</u>	<u>Fee</u>
Total Claims	16	-20	x \$18.00	\$ <u>.00</u>
Independent Claims	2	-3	0 x \$78.00	\$ <u>0.00</u>
Minimum Filing Fee				\$ 760.00
Multiple Dependency Fee (if applicable - \$270.00)				\$ _____
50% Reduction for Small Entity (Independent Inventor, Non-profit Corporation, or Small Business Concern) - appropriate verified statement attached				- <u>\$380.00</u>
TOTAL FILING FEE				<u>\$380.00</u>

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Kindly charge the entire and/or any additional filing fee, as appropriate, to deposit account number 20-0782. To facilitate that charge, a duplicate copy of this letter is enclosed herewith.

Also enclosed herewith for filing in connection with the enclosed application are:

☐ Oath;  
☒ Declaration;  
☐ Disclosure Statement;  
☐ Letter referencing previously filed disclosure document; number \_\_\_\_\_ filed \_\_\_\_\_;  
☒ Verified Statement claiming small entity status;  
☒ An assignment of the application to: DIVA Systems Corporation  
☒ Claim(s) to priority - U.S. Provisional Application  
                    Serial Number                    Filing date  
                    60/127,335                    April 1, 1999  
☐ A certified copy of a \_\_\_\_\_ patent application or inventor's certificate, filed \_\_\_\_\_ and serial no. \_\_\_\_\_, upon which a claim to priority is made;  
☐ Other:

Respectfully submitted,

9/28/99

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Eamon J. Wall, Attorney  
Reg. No. 39,414

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**\*\*\*EXPRESS MAIL CERTIFICATION\*\*\***

"Express Mail" mailing label number: **EL446205046US**  
Date of deposit: **September 28, 1999**

I hereby certify that this patent application and related papers is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.

Carol Wilson  
Signature of person mailing paper or fee

CAROL WILSON  
Name of person mailing paper or fee

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**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL BUSINESS  
STATUS (37 CFR 1.9(f) AND 1.27 (c)) - SMALL BUSINESS CONCERN**

Docket No.  
533/044

Serial No.

Filing Date

Patent No.

Issue Date

Applicant/ **Tom Giammaressi**  
Patentee:

Invention: **SERVICE RATE CHANGE METHOD AND APPARATUS**

I hereby declare that I am:

- ☐ the owner of the small business concern identified below:
- ☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: **DIVA Systems Corporation**ADDRESS OF CONCERN: **333 Ravenswood Avenue, Menlo Park, CA 94025**

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the above identified invention described in:

- ☒ the specification filed herewith with title as listed above.
- ☐ the application identified above.
- ☐ the patent identified above.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed on the next page and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☒ no such person, concern or organization exists.  
☐ each such person, concern or organization is listed below.

FULL NAME

ADDRESS

☐ Individual☐ Small Business Concern☐ Nonprofit Organization

FULL NAME

ADDRESS

☐ Individual☐ Small Business Concern☐ Nonprofit Organization

FULL NAME

ADDRESS

☐ Individual☐ Small Business Concern☐ Nonprofit Organization

FULL NAME

ADDRESS

☐ Individual☐ Small Business Concern☐ Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING:

Stephanie Storms

TITLE OF PERSON SIGNING

OTHER THAN OWNER:

Senior Vice President, General Counsel

ADDRESS OF PERSON SIGNING:

DIVA Systems Corporation333 Ravenswood AvenueMenlo Park, California 94025

SIGNATURE:

Stephanie A. Storms

DATE:

8/12/99Stephanie